

10. (Original) The semiconductor device according to claim 1, further comprising an interlayer insulating film formed between said gate electrodes adjacent to each other, and a film that has a low specific inductive capacity at least lower than the specific inductive capacity of a silicon oxide film, said film being formed on said interlayer insulating film and said gate electrode.

B1
Conj.
11. (Original) The semiconductor device according to claim 1, further comprising a contact electrode connected to said gate electrode on said gate electrode, and connected to one of said impurity diffusion layers.

Claims 12-20 (Withdrawn)

BACKFILE DOCUMENT INDEX SHEET



A DOCPHOENIX

APPL PARTS

IMIS	_____
Internal Misc. Paper	_____
LET.	_____

Misc. Incoming Letter _____
371P _____

PCT Papers in a 371 Application _____

A... _____
Amendment Including Elections _____

ABST _____
Abstract _____

ADS _____
Application Data Sheet _____

AF/D _____
Affidavit or Exhibit Received _____

APPENDIX _____
Appendix _____

ARTIFACT _____
Artifact _____

BIB _____
Bib Data Sheet _____

CLM _____
Claim _____

COMPUTER _____
Computer Program Listing _____

CRFL _____
All CRF Papers for Backfile _____

DIST _____
Terminal Disclaimer Filed _____

DRW _____
Drawings _____

FOR _____
Foreign Reference _____

FRPR _____
Foreign Priority Papers _____

IDS _____
IDS Including 1449 _____

NPL	_____	CTNF	_____
Non-Patent Literature	_____	Count Non-Final	_____
OATH	_____	CTRS	_____
Oath or Declaration	_____	Count Restriction	_____
PET.	_____	EXIN	_____
Petition	_____	Examiner Interview	_____
RETRMAIL	_____	M903	_____
Mail Returned by USPS	_____	DO/EO Acceptance	_____
SEQLIST	_____	M905	_____
Sequence Listing	_____	DO/EO Missing Requirement	_____
SPEC	_____	NFDR	_____
Specification	_____	Formal Drawing Required	_____
SPEC NO	_____	NOA	_____
Specification Not in English	_____	Notice of Allowance	_____
TRNA	_____	PETDEC	_____
Transmittal New Application	_____	Petition Decision	_____

OUTGOING

CTMS	_____
Misc. Office Action	_____
1449	_____
Signed 1449	_____
892	_____
ABN	_____
Abandonment	_____
APDEC	_____
Board of Appeals Decision	_____
APEA	_____
Examiner Answer	_____
CTAV	_____
Count Advisory Action	_____
CTEQ	_____
Count Ex parte Quayle	_____
CTFR	_____
Count Final Rejection	_____

INCOMING

AP.B	_____
Appeal Brief	_____
C.AD	_____
Change of Address	_____
N/AP	_____
Notice of Appeal	_____
PA..	_____
Change in Power of Attorney	_____
REM	_____
Applicant Remarks in Amendment	_____
XT/	_____
Extension of Time filed separate	_____

File Wrapper

FWCLM	_____
File Wrapper Claim	_____
IIFW	_____
File Wrapper Issue Information	_____
SRFW	_____
File Wrapper Search Info	_____

Internal	_____
SRNT	_____
Examiner Search Notes	_____
CLMPTO	_____
PTO Prepared Complete Claim Set	_____

ECBOX	_____
Evidence Copy Box Identification	_____
WCLM	_____
Claim Worksheet	_____
WFEE	_____
Fee Worksheet	_____

REMARKS

At the time of the Office Action dated January 15, 2003, claims 1-20 were pending in this application. Of those claims, claims 1-11 have been rejected and claims 12-20 have been withdrawn from consideration pursuant to the provisions of 37 C.F.R. § 1.142(b). Claim 1 has been amended to recite that a first insulating film is in contact with a semiconductor substrate, consistent with the paragraph spanning pages 10 and 11 of Applicants' originally-filed disclosure. Claim 2 has been cancelled. Claims 5-7 have been amended to be placed in independent form. Claim 6 has also been amended to recite that the thickness of a second insulating film on the top surface of a gate electrode is greater than the thickness of the second insulating film on the surface of a semiconductor substrate, consistent with page 16 of the disclosure. Applicants submit that the present Amendment does not generate any new matter issue.

Claim 2 is objected under 37 C.F.R. § 1.75(c)

Claim 2 has been cancelled. As such, the Examiner's objection to claim 2 is moot.

Claims 1-11 are rejected under the second paragraph of 35 U.S.C. § 112

On the second page of the statement of the rejection, the Examiner asserted that the use of the word "substantially" in claims 1 and 7 renders the claimed invention indefinite. This basis for the rejection is respectfully but vigorously traversed.

Applicants incorporate herein the arguments previously presented in the Amendment filed October 22, 2002, regarding this issue. On page five of the Office Action, the Examiner responded by asserting:

Regarding "substantially", applicant [sic] argues that such language is employed so that the thickness recited is not uniform to the nth degree. Nonetheless, such meaning is not characterized from the original disclosure. It remains that the degree of variation cannot be determined from the specification.

The issue of whether the term "substantially" is indefinite was recently revisited by the Federal Circuit in Verve, LLC v. Crane Cams, Inc., Case No. 01-1417 (Fed. Cir. November 14, 2002). The case was brought on appeal before the Federal Circuit after the district court determined the expression "substantially constant wall thickness" was indefinite for lack in the specification or prosecution history of "a sufficiently clear definition of 'substantially'." The Federal Circuit, however, disapproved of the district court's analysis that the term "substantially" was indefinite because it was not further defined in the specification. As stated by the Federal Circuit:

Patent documents are written for persons familiar with the relevant field; the patentee is not required to include in the specification information readily understood by practitioners, lest every patent be required to be written as a comprehensive tutorial and treatise for the generalist, instead of a concise statement for persons in the field.

The Federal Circuit then relied upon previous case law, which described "substantially" as "a descriptive term commonly used in patent claims 'to avoid a strict numerical boundary to the specified parameter.'" The Federal Circuit concluded with regard to the indefiniteness issue by holding:

It is well establish that when the term "substantially" serves reasonably to describe the subject matter so that its scope would be understood by persons in the field of the invention, and to distinguish the claimed subject matter from the prior art, it is not indefinite. (emphasis added)